

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

GEORGE M. KASSAB, et al.,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF  
AGRICULTURE, et al.,

Defendants.

Case No. 11CV1530-BTM (POR)

**ORDER RE MOTION FOR  
TEMPORARY RELIEF**

Plaintiffs, grocery store owners in San Diego, filed this action seeking judicial review of an administrative action by Defendants, which found that Plaintiffs had trafficked in food stamps. As a result of this determination, Defendants permanently disqualified Plaintiffs from participating in the Supplemental Nutrition Assistance Program.

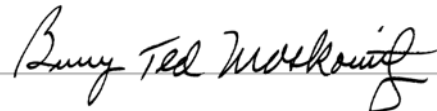
Pending is Plaintiffs' ex parte motion for temporary relief [doc. #4], in which Plaintiffs request the court to stay this administrative decision pending disposition of Plaintiffs' appeal pursuant to 7 U.S.C. § 2023(a)(17). Under this section, Plaintiffs may seek a stay of the administrative action under review "on application to the court on not less than ten days' notice." § 2023(a)(17). Plaintiffs cannot seek preliminary relief without affording Defendant the requisite notice. *See Skyson USA, LLC v. United States*, 651 F. Supp. 2d 1202, 1205 (D. Haw. 2009) (discussing prior denial of a motion for relief under § 2023(a)(17) on this ground).

Plaintiffs have not filed a proof of service of the complaint or of the instant motion. Defendants have not entered a notice of appearance. Because Plaintiffs have not provided Defendants with the requisite ten days notice, Plaintiffs' motion for temporary relief is

1 **DENIED** without prejudice. Plaintiffs shall serve the complaint on Defendants within ten days  
2 of entry of this order. After Plaintiffs file a proof of service, Plaintiffs may re-file a motion for  
3 relief under § 2023(a)(17). On the day Plaintiffs are ready to re-file this motion, they shall call  
4 chambers to obtain a hearing date.

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6 **IT IS SO ORDERED.**

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8 DATED: September 16, 2011

9   
10 Honorable Barry Ted Moskowitz  
11 United States District Judge  
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